

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 MITCHELL LEE VARNELL,

9 Plaintiff,

v.

10 WASHINGTON DEPARTMENT OF
11 CORRECTIONS, et al.,

12 Defendants.

CASE NO. C15-5443 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable David W. Christel, United States Magistrate Judge (Dkt. 178), and
15 Plaintiff Mitchell Varnell’s (“Varnell”) motion for extension of time (Dkt. 179) and
16 objections to the R&R (Dkt. 181).

17 On July 3, 2018, Judge Christel issued the R&R recommending that the Court
18 deny Varnell’s motion for injunctive relief and grant Defendants’ motion for summary
19 judgment on Varnell’s claims. Dkt. 178. On July 17, 2018, Varnell filed a motion for an
20 extension of time to file objections. Dkt. 179. On July 30, 2018, Defendants responded
21 and requested that, if the Court grants Varnell’s motion, the deadline for objections be set
22 no later than August 10, 2018. Dkt. 180. On August 10, 2018, Varnell filed objections.

1 Dkt. 181.¹ On August 30, 2018, Defendants responded to Varnell's objections. Dkt.
2 182. On September 6, 2018, Varnell replied. Dkt. 183.

3 The district judge must determine de novo any part of the magistrate judge's
4 disposition that has been properly objected to. The district judge may accept, reject, or
5 modify the recommended disposition; receive further evidence; or return the matter to the
6 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

7 In this case, Varnell asserts numerous objections. Varnell, however, merely
8 repeats many of his arguments that were properly rejected by Judge Christel. For
9 example, Varnell contends that Defendant Kenneth Sawyer is a consulting, non-
10 specialist, and it was improper to rely on his opinion in opposition to Varnell's treating
11 specialist's opinion. Dkt. 181 at 7. Dr. Sawyer, however, is an orthopedic surgeon and is
12 considered a specialist in the medical field of spinal surgeries. Dkt. 176, ¶ 12. Thus,
13 Varnell's objection on this issue is without merit.

14 Likewise, Varnell fails to establish that any part of the R&R should be modified or
15 rejected. Judge Christel provides a thorough recitation and evaluation of the evidence
16 and the law. Therefore, the Court having considered the R&R, Varnell's objections, and
17 the remaining record, does hereby find and order as follows:

- 18 (1) The R&R is **ADOPTED**;
- 19 (2) Defendants' motion for summary judgment (Dkt. 130) is **GRANTED**;
- 20 (3) Varnell's motion for injunctive relief (Dkt. 129) is **DENIED**; and

21 _____

22 ¹ The Court grants Varnell's motion for an extension because Varnell timely filed his objections within the time frame proposed by Defendants.

1 (4) The Clerk shall enter a **JUDGMENT** and close the case.

2 Dated this 12th day of September, 2018.

3
4 

5 BENJAMIN H. SETTLE
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22